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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,344	01/14/2002	Sheena M. Loosmore	1038-1221 MIS:jb	7370

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SIM & MCBURNEY  
330 UNIVERSITY AVENUE  
6TH FLOOR  
TORONTO, ON M5G 1R7  
CANADA

EXAMINER
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HINES, JANA A

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/043,344

Applicant(s)

LOOSMORE ET AL.

Examiner

Ja-Na Hines

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-17 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - A. Claims 1-4 are drawn to a purified and isolated nucleic acid molecule encoding a transferrin receptor protein, classified in class 530, subclass 388.22.
  - B. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 1, classified in class 436, subclass 86.
  - C. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 2, classified in class 436, subclass 86.
  - D. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 3, classified in class 436, subclass 86.
  - E. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 4, classified in class 436, subclass 86.
  - F. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 5, classified in class 436, subclass 86.
  - G. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 6, classified in class 436, subclass 86.
  - H. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 7, classified in class 436, subclass 86.
  - I. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 8, classified in class 436, subclass 86.

- J. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 9, classified in class 436, subclass 86.
- K. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 10, classified in class 436, subclass 86.
- L. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 11, classified in class 436, subclass 86.
- M. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 12, classified in class 436, subclass 86.
- N. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 105, classified in class 436, subclass 86.
- O. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 106, classified in class 436, subclass 86.
- P. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 107, classified in class 436, subclass 86.
- Q. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 108, classified in class 436, subclass 86.
- R. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 109, classified in class 436, subclass 86.
- S. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 110, classified in class 436, subclass 86.
- T. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 111, classified in class 436, subclass 86.

- U. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 112, classified in class 436, subclass 86.
- V. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 113, classified in class 436, subclass 86.
- W. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 114, classified in class 436, subclass 86.
- X. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 115, classified in class 436, subclass 86.
- Y. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 148, classified in class 436, subclass 86.
- Z. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 149, classified in class 436, subclass 86.
- AA. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 150, classified in class 436, subclass 86.
- BB. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 151, classified in class 436, subclass 86.
- CC. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 152, classified in class 436, subclass 86.
- DD. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 153, classified in class 436, subclass 86.
- EE. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 154, classified in class 436, subclass 86.

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- FF. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 155, classified in class 436, subclass 86.
- GG. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 156, classified in class 436, subclass 86.
- HH. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 157, classified in class 436, subclass 86.
- II. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 158, classified in class 436, subclass 86.
- JJ. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 159, classified in class 436, subclass 86.
- KK. Claims 5-10, drawn to a purified and isolated nucleic acids having a DNA sequence SEQ ID NO: 160, classified in class 436, subclass 86.
- LL. Claims 11-17 are drawn to an immunogenic composition and a method of making immunogenic compositions and method for inducing protection against disease caused by a bacterial pathogen, classified in class 435, subclass 334.

2. The inventions are distinct, each from the other because of the following reasons: Inventions A-LL are related as different products. The products are distinct as claimed because they have different structures and different uses. Group A is drawn to an isolated nucleic acid; Groups B-KK are drawn to specific nucleic acid sequence with different sequence identification numbers; while group LL is drawn to an immunogenic composition. Each group has a different function, effect and is capable of use without

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the other. For instance, the isolated nucleic acid product of Group A can encode a transferrin receptor protein as opposed to the immunogenic composition product of group LL that cannot. Except for the product of group LL, no group can induce protection against disease caused by a bacteria pathogen. Each group has a different structure, produces different effects and has a different function from the other group. Therefore, the products of the inventions are distinct as claimed.

3. The inventions are distinct, each from the other because of the following reasons: Claims 5-10 are drawn to a plurality of disclosed patentably distinct inventions (polypeptides comprising materially different amino acid sequences as evidence by separate SEQ ID Numbers). The separate polypeptides bear distinct structural or biochemical properties as substantiated by the separate SEQ ID numbers **Therefore, each disclosed patentably distinct polynucleotide is considered a separate invention.**

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing which inventions are obvious variants of each other or clearly admit on the record which inventions are obvious variants of each other. If the inventions are deemed obvious variants of each other, then if the examiner finds one of the inventions unpatentable over the prior art, the evidence submitted by applicant or admission of record by applicant may be used in a rejection under 35 U.S.C. §103(a) of the other inventions.

4. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ja-Na Hines whose telephone number is 703-305-0487. The examiner can normally be reached on Monday-Thursday and alternate Fridays.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 703-308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Ja-Na Hines   
September 2, 2003

  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600